

6195

**INTERLOCAL AGREEMENT  
CITY OF EDMONDS AND MOUNTLAKE TERRACE  
Water, Sewer & Storm Utilities**

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into by and between the City of Edmonds, Washington ("Edmonds") and the City of Mountlake Terrace, Washington ("Mountlake Terrace") (collectively, the "Parties") as of the date entered below.

WHEREAS, Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities; and

WHEREAS, right of way is a limited resource for locating both public and private utilities and requires responsible management and stewardship to accommodate existing and future utility services; and

WHEREAS, portions of Edmonds' water, sewer and storm utility systems are currently located within the city limits of Mountlake Terrace; and

WHEREAS, the Washington State Department of Ecology's "Criteria for Sewage Works Design" specifies minimum clearances between sanitary sewer facilities and potable water pipelines; and

WHEREAS, prudent engineering practice is to provide horizontal clearance between underground utilities to facilitate access for maintenance, repair, and replacement of a utility and avoid disruption of service provided by adjacent underground utilities; and

WHEREAS, Edmonds has a deteriorated sanitary sewer main located south of the centerline of 228<sup>th</sup> Street SW near 73<sup>rd</sup> Avenue West that is to be reconstructed; and

WHEREAS, Edmonds' said deteriorated sanitary sewer main is located directly beneath an Edmonds water main which requires the removal and reconstruction of the water main to complete sanitary sewer reconstruction; and

WHEREAS, Edmonds has determined that it is prudent and desirable to reconstruct the water main not above the reconstructed sewer but on a different alignment that will provide clearance between the reconstructed sewer and other existing utilities; and

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WHEREAS, the preferred alignment for the water main is north of the centerline of 228<sup>th</sup> Street SW in the vicinity of 73<sup>rd</sup> Avenue West, which is within the city limit of Mountlake Terrace; and

WHEREAS, it may be necessary for Edmonds to relocate, modify or extend, or add to its utility systems within the city limits of Mountlake Terrace in the future; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, and liabilities regarding these utilities; and

WHEREAS, the City Councils of the City of Edmonds and the City of Mountlake Terrace have taken appropriate action to approve each Party's entry into this Agreement;

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein, Edmonds and Mountlake Terrace agree as follows:

## **TERMS**

Section 1. Purpose. The purpose of this Agreement is to establish a formal arrangement under which Mountlake Terrace will allow Edmonds to locate certain of its water, sewer and storm utilities inside the Mountlake Terrace city limits, and to allocate and define the Parties' respective rights, obligations, and liabilities concerning the establishment, operation, maintenance, repair, reconstruction, abandonment, and removal of said utilities. The terms, conditions and covenants of this Agreement shall accordingly be interpreted to advance this purpose.

Section 2. Definitions. For the purpose of this Agreement, the following word(s) shall have the following meaning(s):

"UTILITIES" means and is limited to water, sanitary sewer and storm systems owned and operated by Edmonds.

Section 3. Term. This Agreement shall be effective upon its execution by the Parties hereto and will remain in effect indefinitely, unless terminated in accordance with Section 4.

Section 4. Termination. Either Party may terminate this Agreement with or without cause by providing the other Party with thirty (30) days written notice of its intent to terminate. Termination or expiration shall not alter the Parties' obligations under Section 5 and Section 6 for UTILITIES already established within the Mountlake Terrace city limits, and shall not alter the Parties' respective obligations under Section 10 of this Agreement.

### Section 5. Obligations of Edmonds.

A. Edmonds shall assume responsibility, including the responsibility for all costs, associated with the establishment, operation, maintenance, repair, modification,

reconstruction, abandonment, and removal of UTILITIES located within the Mountlake Terrace city limits, as described and depicted in Exhibit A, attached hereto and incorporated herein by this reference. Edmonds shall provide updated versions of Exhibit A as UTILITIES are added, modified, or removed with the permit application, unless otherwise approved in writing by Mountlake Terrace.

- B. Edmonds shall coordinate with Mountlake Terrace to ensure that all work, including but is not limited to, trench backfilling, pavement restoration, and temporary traffic control, relating to the UTILITIES located within Mountlake Terrace city limits is performed in accordance with the Mountlake Terrace municipal code, construction standards, and other applicable state, and federal standards and regulations, provided, however, all work relating to assembling and constructing the components of the UTILITIES located within the Mountlake Terrace city limits shall be done in accordance with the City of Edmonds municipal code, construction standards, and other applicable state and federal standards and regulations. Edmonds shall assume responsibility for approval of materials and inspection of the assembly, testing, alignments, slopes, and elevations of the components of the UTILITIES. Deviations from the alignments, slopes, and elevations of the components of the UTILITIES as shown on the construction plans approved by Mountlake Terrace, are subject to further review and approval by Mountlake Terrace.
- C. Edmonds shall respond promptly to information requests submitted by Mountlake Terrace or its agents regarding the UTILITIES located within Mountlake Terrace city limits.
- D. Edmonds shall provide Mountlake Terrace written justification of the necessity and practicality of locating additional future UTILITIES within Mountlake Terrace as compared to locating UTILITIES within Edmonds. Whether Mountlake Terrace allows additional future, UTILITIES to be located in Mountlake Terrace shall be at Mountlake Terrace's sole discretion.
- E. Edmonds shall assume responsibility for acquiring any and all necessary temporary and permanent utility easements for the establishment, operation and maintenance of the UTILITIES.
- F. Edmonds shall submit plans and specifications and apply for all required permits issued under the authority of Mountlake Terrace and pay all permit fees as required.
- G. Edmonds shall be solely responsible to obtain permits required and issued by other jurisdictions and agencies.
- H. Edmonds shall designate Mountlake Terrace as an additional insured in all construction contracts for work related in any manner to UTILITIES within Mountlake Terrace city limits.

- I. Edmonds shall timely notify Mountlake Terrace of pre-construction meetings related to UTILITIES within Mountlake Terrace and invite Mountlake Terrace representatives to attend.
- J. Edmonds shall provide to Mountlake Terrace "as constructed" plans of all UTILITIES located within Mountlake Terrace, and provide updates to those plans when new UTILITIES are constructed and existing UTILITIES are modified, reconstructed, or abandoned within ninety (90) days of the Final Acceptance of the project by the Edmonds City Council or its designee.
- K. Edmonds shall promptly and timely field locate all UTILITIES within Mountlake Terrace city limits in response to field location requests from "one call" services and location requests directly from Mountlake Terrace, and shall assume all liability for unmarked and erroneously marked UTILITIES located within Mountlake Terrace city limits.
- L. Edmonds shall be responsible, at its sole cost and expense, for the removal and relocation, if needed, of UTILITIES within Mountlake Terrace city limits, if in conflict with future improvements within the right of way, when removal is directed by Mountlake Terrace. Relocation to an alternative location within Mountlake Terrace shall be subject to the terms of this Agreement as if it is a new request for locating UTILITIES within Mountlake Terrace. Any such work shall be performed promptly and timely, but in no event more than one hundred eighty (180) calendar days after notice is provided if removal and relocation is performed by Edmonds' city forces or is completed under a contract whose estimated cost allows bids to be solicited using Edmonds' Small Works Roster, and two hundred seventy-five (275) calendar days after notice is provided if removal and relocation is completed under a contract whose estimated costs exceed limits set for using Edmonds' Small Works Roster. Removal and relocation deemed an emergency shall be completed by Edmonds at its sole cost and expense and Edmonds shall perform all reasonable and necessary tasks to remove and/or relocate UTILITIES within Mountlake Terrace city limits in the shortest feasible time period.

Section 6. Obligations of Mountlake Terrace.

- A. Mountlake Terrace shall provide timely review of applications for all required permits submitted by Edmonds for UTILITIES, the approval of which shall not be unreasonably withheld.
- B. Mountlake Terrace shall respond promptly to information requests submitted by Edmonds or its agents regarding the UTILITIES.
- C. Mountlake Terrace shall make reasonable and practical efforts to approve locations for UTILITIES that will reduce the probability of Edmonds needing relocations and removals of UTILITIES located within Mountlake Terrace city limits.

- D. Mountlake Terrace shall make reasonable and practical efforts to locate future Mountlake Terrace utility improvements to accommodate existing UTILITIES located within Mountlake Terrace city limits.
- E. Perform timely inspections of permitted work associated with construction, maintenance, repair, modification, reconstruction, abandonment, and removal of UTILITIES located within Mountlake Terrace city limits.
- F. Mountlake Terrace shall provide written notice to Edmonds to remove and/or relocate UTILITIES located within Mountlake Terrace city limits as may be required by Mountlake Terrace pursuant to Section 5L herein. Edmonds shall remove and/or relocate the UTILITIES in accordance with the time period of removal and relocation as set forth in Section 5L herein, including removal and relocation of UTILITIES necessitated by an emergency.

Section 7. Ownership and Disposition of Property. All materials installed in connection with the UTILITIES located within Mountlake Terrace city limits, shall be and will remain the exclusive property of Edmonds. Mountlake Terrace shall retain ownership of all property rights in the property under and above which the UTILITIES are installed within Mountlake Terrace city limits, with the exception of the necessary temporary and permanent utility easements acquired by Edmonds on its behalf described in Section 5.

Section 8. Properties Served by UTILITIES within Mountlake Terrace city limits. UTILITIES located within Mountlake Terrace city limits shall provide service only to properties within the city limits of Edmonds unless prior written approval by Mountlake Terrace.

Section 9. Administration; No Separate Entity Created. The City Engineer of Edmonds and the Engineering Services Director of Mountlake Terrace shall serve as the administrators of this Agreement. No separate legal entity is formed by this Agreement.

Section 10. Release, Indemnification and Hold Harmless Agreement. Each Party to this Agreement shall be responsible for its own negligent and/or wrongful acts or omissions, and those of its own agents, employees, representatives, contractors or subcontractors, to the fullest extent required by the laws of the State of Washington. Each Party agrees to protect, indemnify and save the other Party harmless from and against any and all such liability for injury or damage to the other Party or the other Party's property, and also from and against all claims, demands and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, caused by its own negligent and/or wrongful acts or omissions or that of its agents, employees, representatives, contractors or subcontractors.

Section 11. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in Snohomish County Superior Court.

Section 12. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between Edmonds and any employee, agent, representative or contractor of Mountlake Terrace, or between Mountlake Terrace and any employee, agent, representative or contractor of Edmonds.

Section 13. No Third Party Rights. This Agreement is intended for the sole and exclusive benefit of the Parties hereto and no third party rights are created by this Agreement.

Section 14. Notices. Notices to Edmonds shall be sent to the following address:

**City of Edmonds  
City Engineer  
121 Fifth Avenue N  
Edmonds, WA 98020**

Notices to Mountlake Terrace shall be sent to the following address:

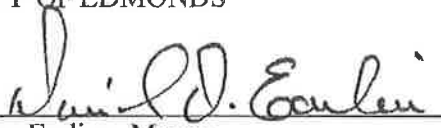
**City of Mountlake Terrace  
Engineering Services Director  
6100 219<sup>th</sup> Street SW, Suite 200  
Mountlake Terrace, WA 98043**

Section 15. Duty to File Agreement with County Auditor. Edmonds shall, after this Agreement is executed by both Parties, file this Agreement with the Snohomish County Auditor.

Section 16. Integration. This document constitutes the entire embodiment of the Agreement between the Parties and, unless modified in writing by an amendment to this Agreement signed by the Parties hereto, shall be implemented as described above.

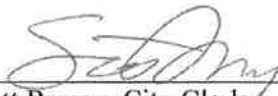
Section 17. Non-Waiver. Waiver by any Party of any of the provisions contained within this Agreement shall not be construed as a waiver of any other provision.

CITY OF EDMONDS

By:   
Dave Earling, Mayor

Date: 2.26.14

ATTEST:

  
Scott Passey, City Clerk

APPROVED AS TO FORM:


  
Office of the City Attorney

CITY OF MOUNTLAKE TERRACE

By:   
Scott Hugill, Interim City Manager

Date: \_\_\_\_\_

ATTEST:

  
Virginia Olsen, City Clerk

APPROVED AS TO FORM:

  
Gregory G. Schrag, City Attorney